

104TH CONGRESS  
1ST SESSION

# H. R. 756

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1995

Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. GREENWOOD, Mr. COLLINS of Georgia, Mr. CANADY of Florida, Mr. GOODLATTE, Mr. McKEON, Mr. BILBRAY, and Mr. SHAW) introduced the following bill; which was referred to the Committee on the Judiciary and, in addition, to the Committees on National Security, Ways and Means, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Illegal Immigration  
 5        Control Act of 1995”.

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## 1           **TITLE I—INTERDICTION**

### 2   **SEC. 101. PHYSICAL BARRIERS.**

3           The Attorney General, in consultation with the Com-  
 4 missioner of the Immigration and Naturalization Service,  
 5 shall take action to install additional physical barriers at  
 6 the United States border to deter unauthorized crossings  
 7 in areas of high illegal entry into the United States. Such  
 8 additional barriers shall include barriers similar to those  
 9 in use in the San Diego, California, vicinity.

### 10   **SEC. 102. BORDER PATROL AGENTS.**

11           In addition to such amounts as are otherwise author-  
 12 ized to be appropriated, there is authorized to be appro-  
 13 priated for each of the fiscal years 1996, 1997, 1998,  
 14 1999, and 2000 for salaries and expenses of the Border  
 15 Patrol such amounts as may be necessary to provide for  
 16 an increase in the number of agents of the Border Patrol

1 to 10,000 full-time equivalent agent positions (and nec-  
2 essary support personnel positions) beyond the number of  
3 such positions authorized for the Border Patrol as of Octo-  
4 ber 1, 1994.

5 **SEC. 103. INTERIOR REPATRIATION PROGRAM.**

6 Not later than 180 days after the date of enactment  
7 of this Act, the Attorney General and the Commissioner  
8 of the Immigration and Naturalization Service shall de-  
9 velop and implement a program in which aliens who pre-  
10 viously have illegally entered the United States not less  
11 than 3 times and are deported or returned to a country  
12 contiguous to the United States will be returned to loca-  
13 tions not less than 500 kilometers from that country's bor-  
14 der with the United States.

15 **SEC. 104. DETENTION FACILITIES.**

16 (a) BORDER DETENTION FACILITIES.—Not later  
17 than 180 days after the date of enactment of this Act,  
18 the Attorney General and the Commissioner of the Immi-  
19 gration and Naturalization Service shall take appropriate  
20 action to increase the capability of the Immigration and  
21 Naturalization Service to detain individuals who have ille-  
22 gally entered the United States at a border area.

23 (b) TRANSFER OF CLOSED MILITARY BASES FOR  
24 FEDERAL ILLEGAL ALIEN INCARCERATION FACILI-  
25 TIES.—

1           (1) PRIORITY AVAILABILITY TO DEPARTMENT  
2           OF JUSTICE.—Notwithstanding any other provision  
3           of law, a military installation or facility of the De-  
4           partment of Defense to be closed under a base clo-  
5           sure law may be made available, as determined by  
6           the Attorney General, to the Bureau of Prisons of  
7           the Department of Justice for use as a facility for  
8           the incarceration of aliens who are subject to exclu-  
9           sion or deportation from the United States.

10          (2) DEFINITION.—For purposes of this sub-  
11          section, the term “base closure law” means each of  
12          the following:

13                (A) The Defense Base Closure and Re-  
14                alignment Act of 1990 (part A of title XXIX of  
15                Public Law 101–510; 10 U.S.C. 2687 note).

16                (B) Title II of the Defense Authorization  
17                Amendments and Base Closure and Realign-  
18                ment Act (Public Law 100–526; 10 U.S.C.  
19                2687 note).

20                (C) Section 2687 of title 10, United States  
21                Code.

22                (D) Any other similar law enacted after  
23                the date of the enactment of this Act.

1 **SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY**  
2 **ARRIVALS.**

3 The Attorney General is authorized to require, by  
4 regulation, not less than 24 hour advance notice to the  
5 Immigration and Naturalization Service of the intention  
6 of any vessel to arrive at any port of entry.

7 **SEC. 106. BORDER CROSSING FEE.**

8 The Commissioner shall collect a user fee for each  
9 entry into the United States by land after December 31,  
10 1995. The amount of the fee to be charged shall be deter-  
11 mined by the Commission and the Attorney General and  
12 such amount (rounded to the nearest whole dollar) shall  
13 not exceed the current fee charged to persons entering the  
14 United States by air. The Commissioner by regulation  
15 may establish a reduced fee or a multiple-crossing fee for  
16 frequent border crossers.

17 **SEC. 107. BORDER CONTROL TRUST FUND.**

18 There is established a Border Control Trust Fund  
19 ("Fund") under the control of the Commissioner. The fees  
20 collected under section 106 shall be deposited into the  
21 Fund. Amounts deposited into the Fund and the earnings  
22 thereon shall be expended by the Commissioner exclusively  
23 for (1) measures, personnel, structures, and devices to  
24 deter and prevent illegal entry of persons and contraband  
25 into the United States by land or by sea, (2) construction  
26 and operation of facilities to expedite lawful border traffic

1 and reduce, where practical, extensive delays in the time  
2 required for lawful entry of goods and persons, (3) depor-  
3 tation of aliens, (4) construction and operation of facilities  
4 used to detain individuals who have entered the United  
5 States illegally at the border including the mandate costs  
6 necessary to fully utilize INS Service Processing Center  
7 facilities, available local and State facilities, and available  
8 contract facilities, and (5) financial and other assistance  
9 to State and local law enforcement agencies that have en-  
10 tered into cooperative arrangements with the Immigration  
11 and Naturalization Service. Not less than 80 percent of  
12 the sum of (a) amounts deposited into the Fund during  
13 a fiscal year and (b) the earnings of the Fund during that  
14 fiscal year shall be expended during that or the subsequent  
15 fiscal year.

## 16 **TITLE II—ALIEN SMUGGLING**

### 17 **SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR** 18 **HARBORING ILLEGAL ALIENS.**

19 (a) IN GENERAL.—Paragraph (1) of section 274(b)  
20 of the Immigration and Nationality Act (8 U.S.C.  
21 1324(b)) is amended to read as follows:

22 “(1)(A) Except as provided in subparagraph (B), the  
23 following property shall be subject to seizure and forfeit-  
24 ure:

1           “(i) Any conveyance, including any vessel, vehi-  
2           cle, or aircraft, which has been or is being used in  
3           the commission of a violation of subsection (a).

4           “(ii) Any property, real or personal, which—

5                   “(I) constitutes, or is derived from or  
6                   traceable to, the proceeds obtained directly or  
7                   indirectly from the commission of a violation of  
8                   subsection (a), or

9                   “(II) is used to facilitate, or is intended to  
10                  be so used in the commission of, a violation of  
11                  subsection (a)(1)(A).

12          “(B)(i) No property used by any person as a common  
13          carrier in the transaction of business as a common carrier  
14          shall be forfeited under this section, unless the owner or  
15          other person with lawful custody of the property was a  
16          consenting party to or privy to the violation of subsection  
17          (a) or of section 274A(a)(1) or 274A(a)(2).

18          “(ii) No property shall be forfeited under the provi-  
19          sions of this section by reason of any act or omission es-  
20          tablished by the owner to have been committed or omitted  
21          by a person other than the owner while the property was  
22          unlawfully in the possession of a person other than the  
23          owner in violation of the criminal laws of the United  
24          States or of any State.



1       “(iii) No property shall be forfeited under the provi-  
2       sions of this section to the extent of an interest of the  
3       owner, by reason of any act or omission established by  
4       the owner to have been committed or omitted without the  
5       knowledge, consent, or willful disregard of the owner, un-  
6       less the act or omission was committed or omitted by an  
7       employee or agent of the owner or other person with lawful  
8       custody of the property with the intent of furthering the  
9       business interests of, or to confer any other benefit upon,  
10      the owner or other person with lawful custody of the prop-  
11      erty.”.

12       (b) CONFORMING AMENDMENTS.—Section 274(b) of  
13      such Act (8 U.S.C. 1324(b)) is amended—

14               (1) in paragraph (2)—

15                       (A) by striking “conveyance” and inserting  
16                       “property” each place it appears, and

17                       (B) by striking “is being used in” and in-  
18                       serting “is being used in, is facilitating, has fa-  
19                       cilitated, is facilitating or was intended to facili-  
20                       tate”; and

21               (2) in paragraphs (4) and (5), by striking “a  
22               conveyance”, “any conveyance”, and “conveyance”  
23               and inserting “property” each place it appears.

1 **SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**  
2 **ING ACTIVITY FOR PURPOSES OF RACK-**  
3 **ETEERING INFLUENCED AND CORRUPT OR-**  
4 **GANIZATIONS (RICO) ENFORCEMENT AU-**  
5 **THORITY.**

6 Section 1961(1) of title 18, United States Code, is  
7 amended—

8 (1) by striking “or” before “(E) any act”, and

9 (2) by inserting before the period at the end the  
10 following: “, or (F) any act which is indictable under  
11 section 274(a)(1) of the Immigration and National-  
12 ity Act (relating to alien smuggling)”.

13 **SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN**  
14 **SMUGGLING AND FOR EMPLOYERS WHO**  
15 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

16 Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amend-  
17 ed—

18 (1) by striking “or” at the end of subparagraph  
19 (C),

20 (2) by striking the comma at the end of sub-  
21 paragraph (D) and inserting “; or”,

22 (3) by inserting after subparagraph (D) the fol-  
23 lowing:

24 “(E) contracts or agrees with another party for  
25 that party to provide, for employment by the person  
26 or another, an alien who is not authorized to be em-

1       employed in the United States, knowing that such  
2       party intends to cause such alien to be brought into  
3       the United States in violation of the laws of the  
4       United States,” and

5               (4) by striking “five years” and inserting “ten  
6       years”.

7       **SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**  
8                               **VESTIGATIONS.**

9       Section 2516(1) of title 18, United State Code, is  
10   amended—

11               (1) in paragraph (c) by inserting after “weap-  
12       ons),” the following: “or a felony violation of section  
13       1028 (relating to production of false identification  
14       documentation), section 1542 (relating to false  
15       statements in passport applications), section 1546  
16       (relating to fraud and misuse of visas, permits, and  
17       other documents),”;

18               (2) by striking out “or” after paragraph (l) and  
19       redesignating paragraphs (m), (n), and (o) as para-  
20       graphs (n), (o), and (p), respectively; and

21               (3) by inserting after paragraph (l) the follow-  
22       ing new paragraph:

23       “(m) a violation of section 274 of the Immigration  
24       and Nationality Act (8 U.S.C. 1324) (relating to alien  
25       smuggling), of section 277 of the Immigration and Nation-

1 ality Act (8 U.S.C. 1327) (relating to the smuggling of  
 2 aliens convicted of aggravated felonies or of aliens subject  
 3 to exclusion on grounds of national security), or of section  
 4 278 of the Immigration and Nationality Act (8 U.S.C.  
 5 1328) (relating to smuggling of aliens for the purpose of  
 6 prostitution or other immoral purpose);”.

### 7 **TITLE III—EMPLOYMENT**

#### 8 **SEC. 301. IMPROVEMENT OF WORK ELIGIBILITY DOCU-** 9 **MENTS.**

10 (a) WORK ELIGIBILITY DOCUMENTS AND VERIFICA-  
 11 TION OF ELIGIBILITY TO WORK.—Section 274A(b) of the  
 12 Immigration and Nationality Act is amended—

13 (1) by striking paragraph (1) of subsection (b)  
 14 and inserting:

15 “(1) ATTESTATION AFTER EXAMINATION AND  
 16 VERIFICATION OF DOCUMENTATION.—The person or  
 17 entity must attest, under penalty or perjury and on  
 18 a form designated or established by the Attorney  
 19 General by regulation, that it has verified that the  
 20 individual is not an unauthorized alien by—

21 “(A) examining the individual’s Social Se-  
 22 curity account number card issued pursuant to  
 23 subsection (d)(1), and

24 “(B) verifying the individual’s Social Secu-  
 25 rity account number through the verification

1 system established pursuant to subsection  
2 (d)(4).”,

3 (2) by inserting the following paragraph and re-  
4 designating the subsequent paragraphs accordingly:

5 “(2) VERIFICATION OF CONTINUED WORK ELI-  
6 GIBILITY FOR ALIENS WITH LIMITED WORK AU-  
7 THORIZATION.—In the case of an alien whose work  
8 authorization has an expiration date, a person or en-  
9 tity who continues to employ such an alien after the  
10 date the employment authorization expires must ver-  
11 ify, through the verification system established pur-  
12 suant to subsection (d)(4), that the alien’s work au-  
13 thorization has been extended.”, and

14 (3) by adding at the end the following:

15 “(7) Notwithstanding any other provision of  
16 law, a person or entity may not be considered to dis-  
17 criminate by requesting the production of the docu-  
18 mentation required under this subsection in the hir-  
19 ing, recruiting, or referring of an individual for em-  
20 ployment in the United States.”.

21 (b) EFFECTIVE DATES.—(1) Subsection (a)(1) shall  
22 be effective as of July 1, 1996.

23 (2) Paragraphs (2) and (3) of subsection (a) shall  
24 be effective upon enactment of this Act.

1       (c) ENHANCEMENT OF SOCIAL SECURITY CARDS  
2 AND ESTABLISHMENT OF EMPLOYMENT VERIFICATION  
3 SYSTEM.—Section 274A(d) of the Immigration and Na-  
4 tionality Act is amended to read as follows:

5       “(d) EMPLOYMENT VERIFICATION SYSTEM.—

6               “(1) ENHANCEMENT OF SOCIAL SECURITY  
7 CARDS.—

8               “(A) ISSUANCE OF ENHANCED CARD FOR  
9 CITIZENS.—The Secretary shall cause to be is-  
10 sued enhanced Social Security account number  
11 cards to United States citizens and United  
12 States nationals who are 16 years of age or  
13 older upon application, proof of identity, proof  
14 of citizenship or nationality, and payment of a  
15 reasonable fee.

16               “(B) ISSUANCE OF ENHANCED CARD FOR  
17 ALIENS.—The Secretary shall cause to be is-  
18 sued enhanced Social Security account number  
19 cards to aliens lawfully admitted for permanent  
20 residence or who are otherwise authorized to  
21 work in the United States and who are 16 years  
22 of age or older upon application, proof of iden-  
23 tity, verification of status by the Immigration  
24 and Naturalization Service, and payment of a  
25 reasonable fee.

1           “(2) REQUIREMENTS OF NEW CARDS.—(A) The  
2       cards issued pursuant to paragraph (1) shall—

3               “(i) be uniform in appearance,

4               “(ii) be as tamper-proof and counterfeit-re-  
5       sistant as is practicable,

6               “(iii) contain a photograph and such other  
7       identifying information that is specific to each  
8       person as the Secretary shall determine,

9               “(iv) contain the name, sex, date of birth,  
10       citizenship status, and Social Security account  
11       number of the issuee, and

12              “(v) incorporate a machine-readable encod-  
13       ing of the information contained in the card.

14           “(B) The cards issued pursuant to paragraph  
15       (1)(B) to aliens who are not permanent resident  
16       aliens shall indicate whether the work authorization  
17       granted to the alien has an expiration date.

18           “(3) IMPLEMENTATION.—(A) All Social Secu-  
19       rity account number cards issued after July 1, 1996,  
20       must be issued pursuant to the requirements under  
21       this subsection.

22           “(B) After July 1, 1996, individuals applying  
23       for employment shall be required to apply for en-  
24       hanced Social Security account cards to be issued  
25       pursuant to paragraph (1).

1           “(C) By January 1, 2000, all individuals who  
2           are 16 years of age or older and who have a Social  
3           Security account number must apply for Social Se-  
4           curity account number card issued pursuant to para-  
5           graph (1).

6           “(4) VERIFICATION SYSTEM.—

7           “(A) IN GENERAL.—The Secretary, in con-  
8           sultation with the Attorney General, shall make  
9           such modifications and improvements as are  
10          necessary to current data bases and systems to  
11          develop and implement a verification system  
12          that a person or entity can access by telephone  
13          or other electronic means. Such system shall  
14          allow for verification that an individual’s Social  
15          Security account number—

16               “(i) has been issued,

17               “(ii) was issued to an individual au-  
18              thorized to work in the United States, and

19               “(iii) is not a number issued to a de-  
20              ceased individual that has not been re-  
21              issued.

22          The system shall also provide any other infor-  
23          mation that the Secretary and Attorney General  
24          determine is needed to verify that the number  
25          is a number issued validly to the individual and



1           that such individual is authorized to work in  
2           the United States.

3           “(B) ACCESS FEE.—A fee, not to exceed  
4           \$2 plus any line charges payable to a telephone  
5           carrier or equivalent entity, shall be charged for  
6           each instance of accessing the verification sys-  
7           tem to pay for the costs of operating the sys-  
8           tem.

9           “(C) EFFECTIVE DATE.—The verification  
10          system required by this paragraph shall be  
11          operational by July 1, 1996.

12          “(5) FUNDING OF EMPLOYMENT VERIFICATION  
13          SYSTEM.—

14               “(A) The amount of the fee that is to be  
15               charged under paragraph (1) shall be the  
16               amount (rounded to the nearest whole dollar),  
17               not exceeding \$40, required to cover the costs  
18               of issuing the cards. The Secretary shall pro-  
19               vide for the waiver of any fee for persons un-  
20               able to pay.

21               “(B) Any costs incurred in developing and  
22               implementing the new Social Security account  
23               number cards and verification system estab-  
24               lished under this subsection that exceed the fees  
25               collected under paragraph (1) shall not be paid

1 for out of any trust fund established under the  
2 Social Security Act.

3 “(6) PRIVACY PROTECTIONS.—

4 “(A) Any personal information utilized by  
5 the system may not be made available to Gov-  
6 ernment agencies, employers, and other persons  
7 except to the extent necessary to verify that an  
8 individual is not an unauthorized alien.

9 “(B) The system must protect the privacy  
10 and security of personal information and identi-  
11 fiers utilized in the system.

12 “(C) A verification that an employee or  
13 prospective employee is eligible to be employed  
14 in the United States may not be withheld or re-  
15 voked under the system for any reason other  
16 than that the employee or prospective employee  
17 is an unauthorized alien.

18 “(D) The system may not be used for law  
19 enforcement purposes, other than for enforce-  
20 ment of this Act or section 1001, 1028, 1546,  
21 and 1621 of title 18, United States Code.

22 “(E) The cards issued pursuant to this  
23 subsection may not be required to be presented  
24 for any purpose other than under this Act (or  
25 enforcement of sections 1001, 1028, 1546, and

1           1621 of title 18, United States Code) nor to be  
2           carried on one's person.

3           “(F) Unauthorized use or disclosure of the  
4           information or identifiers contained in the em-  
5           ployment verification system shall be punishable  
6           by civil and criminal penalties.

7           “(7) MONITORING AND IMPROVEMENTS IN SYS-  
8           TEM.—(A) The Attorney General shall provide for  
9           the monitoring and evaluation of the degree to which  
10          the employment verification system established  
11          under subsection (b) provides a secure system to de-  
12          termine employment eligibility in the United States.

13          “(B) To the extent that the system established  
14          under this subsection and subsection (b) is found  
15          not to be a secure system to determine employment  
16          eligibility in the United States, the Attorney General  
17          shall recommend such changes in (including addi-  
18          tions to) the system as may be necessary to establish  
19          such a system.

20          “(8) DEFINITIONS.—For purposes of this sub-  
21          section—

22                  “(A) the term ‘Secretary’ means the Sec-  
23                  retary of Health and Human Services, and

1           “(B) the term ‘State’ means one of the  
2           United States, the District of Columbia, or  
3           Puerto Rico.”.

4           (d) CONFORMING AMENDMENTS.—(1) Section 274A  
5 of the Immigration and Nationality Act is amended—

6           (A) in subsection (b), by striking “following  
7           three paragraphs” and inserting “following four  
8           paragraphs”, and

9           (B) by striking subsections (i), (j), (k), (l), (m),  
10          and (n).

11          (2) This subsection shall be effective on July 1, 1996.

12   **SEC. 302. IMMIGRATION AND NATURALIZATION SERVICE**  
13                           **INVESTIGATORS.**

14          In addition to such amounts as are otherwise author-  
15 ized to be appropriated, there is authorized to be appro-  
16 priated for each of the fiscal years 1996, 1997, 1998,  
17 1999, and 2000 for salaries and expenses of the Immigra-  
18 tion and Naturalization Service such amounts as may be  
19 necessary to provide for an increase in the number of in-  
20 vestigators of the Immigration and Naturalization Service  
21 by 1,000 full-time equivalent investigator positions (and  
22 such support personnel as are necessary) beyond the num-  
23 ber of such positions authorized as of October 1, 1994.

## **TITLE IV—GOVERNMENT BENEFITS**

### **SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CATEGORIES OF ALIENS.**

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—Subject to subsection (b) and the Immigration and Nationality Act, and notwithstanding any other provision of law, an alien not lawfully within the United States as a permanent resident, a refugee, an asylee, or a parolee is not eligible for any direct Federal financial benefit or social insurance benefit (whether through grant, loan, guarantee, or otherwise) as such benefits are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of the Federal Government.

(b) EMERGENCY MEDICAL CARE.—Subsection (a) shall not apply with respect to the Federal reimbursement of emergency medical care for aliens, as determined by the Secretary of Health and Human Services by regulation.

### **SEC. 402. UNEMPLOYMENT BENEFITS.**

(a) An alien who has not been granted employment authorization pursuant to the Immigration and Nationality Act or other Federal law shall be ineligible for unemployment compensation under an unemployment compensation law of a State or the United States.

1 (b) An alien granted temporary work authorization  
2 shall be eligible only for unemployment compensation  
3 under an employment compensation law of a State or the  
4 United States that accrued during such time as the alien  
5 was authorized to work.

6 **SEC. 403. HOUSING BENEFITS.**

7 (a) LIMITATION.—Notwithstanding section 401 or  
8 any other provision of law, no alien who is not a perma-  
9 nent resident, a refugee, an asylee, or a parolee shall be  
10 eligible for benefits under the following provisions of law:

11 (1) The program of rental assistance on behalf  
12 of low-income families provided under section 8 of  
13 the United States Housing Act of 1937 (42 U.S.C.  
14 1437f).

15 (2) The program of assistance to public housing  
16 under title I of the United States Housing Act of  
17 1937 (42 U.S.C. 1437 et seq.).

18 (3) The loan program under section 502 of the  
19 Housing Act of 1949 (42 U.S.C. 1472).

20 (4) The program of interest reduction payments  
21 pursuant to contracts entered into by the Secretary  
22 of Housing and Urban Development under section  
23 236 of the National Housing Act (12 U.S.C.  
24 1715z-1).

1           (5) The program of loans for rental and cooper-  
2           ative housing under section 515 of the Housing Act  
3           of 1949 (42 U.S.C. 1485).

4           (6) The program of rental assistance payments  
5           pursuant to contracts entered into under section  
6           521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C.  
7           1490a(a)(2)(A)).

8           (7) The program of assistance payments on be-  
9           half of homeowners under section 235 of the Na-  
10          tional Housing Act (12 U.S.C. 1715z).

11          (8) The program of rent supplement payments  
12          on behalf of qualified tenants pursuant to contracts  
13          entered into under section 101 of the Housing and  
14          Urban Development Act of 1965 (12 U.S.C. 1701s).

15          (9) The loan and grant programs under section  
16          504 of the Housing Act of 1949 (42 U.S.C. 1474)  
17          for repairs and improvements to rural dwellings.

18          (10) The loan and assistance programs under  
19          sections 514 and 516 of the Housing Act of 1949  
20          (42 U.S.C. 1484, 1486) for housing for farm labor.

21          (11) The program of grants for preservation  
22          and rehabilitation of housing under section 533 of  
23          the Housing Act of 1949 (42 U.S.C. 1490m).

24          (12) The program of grants and loans for mu-  
25          tual and self-help housing and technical assistance

1 under section 523 of the Housing Act of 1949 (42  
2 U.S.C. 1490c).

3 (13) The program of site loans under section  
4 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

5 (b) REGULATIONS.—Not later than January 1, 1995,  
6 the Secretary of Housing and Urban Development shall  
7 issue final regulations to carry out subsection (a).

8 **SEC. 404. SAVE SYSTEM.**

9 There are authorized to be appropriated for each of  
10 the fiscal years 1996, 1997, 1998, 1999, and 2000 such  
11 sums as may be necessary to carry out the purposes of  
12 the automated SAVE system established under section  
13 121 of the Immigration Reform and Control Act of 1986  
14 (Public Law 99–603).

15 **SEC. 405. LIMITATION ON FEDERAL FINANCIAL ASSIST-**  
16 **ANCE TO LOCALITIES THAT REFUSE TO CO-**  
17 **OPERATE IN THE ARREST AND DEPORTATION**  
18 **OF UNLAWFUL ALIENS.**

19 Notwithstanding any other provision of law, Federal  
20 financial assistance shall be reduced by 20 percent to any  
21 local government on and after such date as the Attorney  
22 General certifies that the local government has an official  
23 policy of refusing to cooperate with officers or employees  
24 of the Department of Justice (including the Immigration  
25 and Naturalization Service) with respect to the arrest and



1 deportation of aliens who are not lawfully present within  
2 the United States. Such reduction in assistance is not re-  
3 imburseable and shall continue for as long as the policy  
4 of noncooperation remains in effect.

5 **SEC. 406. UNIFORM VITAL STATISTICS.**

6 (a) PILOT PROGRAM.—The Secretary of Health and  
7 Human Services shall consult with the State agency re-  
8 sponsible for registration and certification of births and  
9 deaths and, within 3 years of the date of enactment of  
10 this Act, shall establish a pilot program for 3 of the 5  
11 States with the largest number of undocumented aliens  
12 of an electronic network linking the vital statistics records  
13 of such States. The network shall provide, where practical,  
14 for the matching of deaths with births and shall enable  
15 the confirmation of births and deaths of citizens of such  
16 States, or of aliens within such States, by any Federal  
17 or State agency or official in the performance of official  
18 duties. The Secretary and participating State agencies  
19 shall institute measures to achieve uniform and accurate  
20 reporting of vital statistics into the pilot program network,  
21 to protect the integrity of the registration and certification  
22 process, and to prevent fraud against the Government and  
23 other persons through the use of false birth or death cer-  
24 tificates.

1 (b) REPORT.—Not later than 180 days after the es-  
 2 tablishment of the pilot program under subsection (a), the  
 3 Secretary shall issue a written report to Congress with rec-  
 4 ommendations on how the pilot program could effectively  
 5 be instituted as a national network for the United States.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated for fiscal year 1996 and  
 8 for subsequent fiscal years such sums as may be necessary  
 9 to carry out this section.

## 10 **TITLE V—CRIMINAL ALIENS**

### 11 **SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON** 12 **CRIMINAL PROBATION OR CRIMINAL PA-** 13 **ROLE.**

14 Section 263(a) of the Immigration and Nationality  
 15 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”  
 16 and inserting “(5) aliens who are or have been on criminal  
 17 probation or criminal parole pursuant to the laws of the  
 18 United States or of any State, and (6)”.

### 19 **SEC. 502. RESTRICTING DEFENSES TO DEPORTATION FOR** 20 **CERTAIN CRIMINAL ALIENS.**

21 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-  
 22 NENT RESIDENCE.—The last sentence of section 212(c)  
 23 of the Immigration and Nationality Act (8 U.S.C.  
 24 1182(c)) is amended by striking out “has served for such  
 25 felony or felonies” and all that follows through the period

1 and inserting in lieu thereof “has been sentenced for such  
2 felony or felonies to a term of imprisonment of at least  
3 5 years, provided that the time for appealing such convic-  
4 tion or sentence has expired and the sentence has become  
5 final.”.

6 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-  
7 TATION.—Section 243(h)(2) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

9 (1) striking out the final sentence and inserting  
10 in lieu thereof the following new subparagraph:

11 “(E) the alien has been convicted of an ag-  
12 gravated felony.”; and

13 (2) striking out the “or” at the end of subpara-  
14 graph (C) and inserting “or” at the end of subpara-  
15 graph (D).

16 **SEC. 503. MISCELLANEOUS AND TECHNICAL CHANGES.**

17 (a) FORM OF DEPORTATION HEARINGS.—The sec-  
18 ond sentence of section 242(b) of the Immigration and  
19 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-  
20 ing before the period the following: “; except that nothing  
21 in this subsection shall preclude the Attorney General  
22 from authorizing proceedings by electronic or telephonic  
23 media (with or without the consent of the alien) or, where  
24 waived or agreed to by the parties, in the absence of the  
25 alien.”.

1       (b) CONSTRUCTION OF EXPEDITED DEPORTATION  
2 REQUIREMENTS.—No amendment made by this Act shall  
3 be construed to create any right or benefit, substantive  
4 or procedural, which is legally enforceable by any party  
5 against the United States, its agencies, its officers or any  
6 other person.

7       (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-  
8 TATION ORDER.—Section 276 of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1326) is amended by inserting  
10 after subsection (b) the following new subsection:

11       “(c) In any criminal proceeding under this section,  
12 no alien may challenge the validity of the deportation  
13 order described in subsection (a)(1) or subsection (b) un-  
14 less the alien demonstrates—

15               “(1) that the alien exhausted the administrative  
16 remedies (if any) that may have been available to  
17 seek relief against such order,

18               “(2) that the deportation proceedings at which  
19 such order was issued improperly deprived the alien  
20 of the opportunity for judicial review, and

21               “(3) that the entry of such order was fun-  
22 damentally unfair.”.

23 **SEC. 504. CRIMINAL ALIEN TRACKING CENTER.**

24       (a) OPERATION.—The Commissioner of Immigration  
25 and Naturalization, with the cooperation of the Director

1 of the Federal Bureau of Investigation and the heads of  
2 other agencies, shall, under the authority of section  
3 242(a)(3)(A) of the Immigration and Nationality Act (8  
4 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking  
5 center.

6 (b) PURPOSE.—The criminal alien tracking center  
7 shall be used to assist Federal, State, and local law en-  
8 forcement agencies in identifying and locating aliens who  
9 may be subject to deportation by reason of their conviction  
10 of aggravated felonies.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to carry out this section  
13 \$2,000,000 for fiscal year 1996 and \$5,000,000 for each  
14 of the fiscal years 1997, 1998, 1999, and 2000.

15 **SEC. 505. PRISONER TRANSFER TREATY STUDY.**

16 (a) REPORT TO CONGRESS.—Not later than 180 days  
17 after the date of the enactment of this Act, the Secretary  
18 of State and the Attorney General shall submit to the Con-  
19 gress a report that describes the use and effectiveness of  
20 the Prisoner Transfer Treaty (in this section referred to  
21 as the “Treaty”) with Mexico to remove from the United  
22 States aliens who have been convicted of crimes in the  
23 United States.

24 (b) USE OF TREATY.—The report under subsection  
25 (a) shall include the following information:

1           (1) The number of aliens convicted of a crimi-  
2           nal offense in the United States since November 30,  
3           1977, who would have been or are eligible for trans-  
4           fer pursuant to the Treaty.

5           (2) The number of aliens described in para-  
6           graph (1) who have been transferred pursuant to the  
7           Treaty.

8           (3) The number of aliens described in para-  
9           graph (2) who have been incarcerated in full compli-  
10          ance with the Treaty.

11          (4) The number of aliens who are incarcerated  
12          in a penal institution in the United States who are  
13          eligible for transfer pursuant to the Treaty.

14          (5) The number of aliens described in para-  
15          graph (4) who are incarcerated in State and local  
16          penal institutions.

17          (c) EFFECTIVENESS OF TREATY.—The report under  
18          subsection (a) shall include the recommendations of the  
19          Secretary of State and the Attorney General to increase  
20          the effectiveness and use of, and full compliance with, the  
21          Treaty. In considering the recommendations under this  
22          subsection, the Secretary and the Attorney General shall  
23          consult with such State and local officials in areas dis-  
24          proportionately impacted by aliens convicted of criminal  
25          offenses as the Secretary and the Attorney General con-

1 sider appropriate. Such recommendations shall address  
2 the following areas:

3 (1) Changes in Federal laws, regulations, and  
4 policies affecting the identification, prosecution, and  
5 deportation of aliens who have committed a criminal  
6 offense in the United States.

7 (2) Changes in State and local laws, regulations,  
8 and policies affecting the identification, prosecution,  
9 and deportation of aliens who have committed a  
10 criminal offense in the United States.

11 (3) Changes in the Treaty that may be nec-  
12 essary to increase the number of aliens convicted of  
13 crimes who may be transferred pursuant to the  
14 Treaty.

15 (4) Methods for preventing the unlawful re-  
16 entry into the United States of aliens who have been  
17 convicted of criminal offenses in the United States  
18 and transferred pursuant to the Treaty.

19 (5) Any recommendations of appropriate offi-  
20 cials of the Mexican Government on programs to  
21 achieve the goals of, and ensure full compliance  
22 with, the Treaty.

23 (6) An assessment of whether the recommenda-  
24 tions under this subsection require the renegotiation  
25 of the Treaty.

1           (7) The additional funds required to implement  
2           each recommendation under this subsection.

3   **SEC. 506. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**  
4           **EXCLUSION.**

5           (a) CONVICTED DEFINED.—Section 241(a)(2) of the  
6   Immigration and Nationality Act (8 U.S.C. 1251(a)(2))  
7   is amended by adding at the end the following new sub-  
8   paragraph:

9                   “(E) CONVICTED DEFINED.—In this para-  
10                  graph, the term ‘convicted’ means a judge or  
11                  jury has found the alien guilty or the alien has  
12                  entered a plea of guilty or nolo contendere,  
13                  whether or not the alien appeals therefrom.”.

14          (b) DEPORTATION OF CONVICTED ALIENS.—

15                  (1) IMMEDIATE DEPORTATION.—Section 242(h)  
16          of such Act (8 U.S.C. 1252(h)) is amended—

17                          (A) by striking “(h) An alien” and insert-  
18                          ing “(h)(1) Subject to paragraph (2), an alien”;  
19                          and

20                          (B) by adding at the end the following new  
21          paragraph:

22                  “(2) An alien sentenced to imprisonment may be de-  
23          ported prior to the termination of such imprisonment by  
24          the release of the alien from confinement, if the Service  
25          petitions the appropriate court or other entity with author-



1 ity concerning the alien to release the alien into the cus-  
2 tody of the Service for execution of an order of deporta-  
3 tion.”.

4 (2) PROHIBITION OF REENTRY INTO THE  
5 UNITED STATES.—Section 212(a)(2) of such Act (8  
6 U.S.C. 1182(a)(2)) is amended—

7 (A) by redesignating subparagraph (F) as  
8 subparagraph (G); and

9 (B) by inserting after subparagraph (E)  
10 the following new subparagraph:

11 “(F) ALIENS DEPORTED BEFORE SERVING  
12 MINIMUM PERIOD OF CONFINEMENT.—In addi-  
13 tion to any other period of exclusion which may  
14 apply an alien deported pursuant to section  
15 242(h)(2) is excludable during the minimum pe-  
16 riod of confinement to which the alien was sen-  
17 tenced.”.

18 (c) EXECUTION OF DEPORTATION ORDERS.—Section  
19 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-  
20 ing at the end the following: “An order of deportation may  
21 not be executed until all direct appeals relating to the con-  
22 viction which is the basis of the deportation order have  
23 been exhausted.”.

1     **TITLE VI—TERRORIST ALIENS**

2     **SEC. 601. REMOVAL OF ALIEN TERRORISTS.**

3         The Immigration and Nationality Act (8 U.S.C. 1101  
4 et seq.) is amended by inserting the following new section:

5                 “REMOVAL OF ALIEN TERRORISTS

6                 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-  
7 tion—

8                         “(1) the term ‘alien terrorist’ means any alien  
9 described in section 241(a)(4)(B);

10                         “(2) the term ‘classified information’ has the  
11 same meaning as defined in section 1(a) of the Clas-  
12 sified Information Procedures Act (18 U.S.C. App.  
13 IV);

14                         “(3) the term ‘national security’ has the same  
15 meaning as defined in section 1(b) of the Classified  
16 Information Procedures Act (18 U.S.C. App. IV);

17                         “(4) the term ‘special court’ means the court  
18 described in subsection (c) of this section; and

19                         “(5) the term ‘special removal hearing’ means  
20 the hearing described in subsection (e) of this sec-  
21 tion.

22                 “(b) APPLICATION FOR USE OF PROCEDURES.—The  
23 provisions of this section shall apply whenever the Attor-  
24 ney General certifies under seal to the special court that—

1           “(1) the Attorney General or Deputy Attorney  
2       General has approved of the proceeding under this  
3       section;

4           “(2) an alien terrorist is physically present in  
5       the United States; and

6           “(3) removal of such alien terrorist by deporta-  
7       tion proceedings described in sections 242, 242A, or  
8       242B would pose a risk to the national security of  
9       the United States because such proceedings would  
10      disclose classified information.

11          “(c) SPECIAL COURT.—(1) The Chief Justice of the  
12      United States shall publicly designate up to 7 judges from  
13      up to 7 United States judicial districts to hear and decide  
14      cases arising under this section, in a manner consistent  
15      with the designation of judges described in section 103(a)  
16      of the Foreign Intelligence Surveillance Act (50 U.S.C.  
17      1803(a)).

18          “(2) The Chief Justice may, in the Chief Justice’s  
19      discretion, designate the same judges under this section  
20      as are designated pursuant to 50 U.S.C. 1803(a).

21          “(d) INVOCATION OF SPECIAL COURT PROCE-  
22      DURE.—(1) When the Attorney General makes the appli-  
23      cation described in subsection (b), a single judge of the  
24      special court shall consider the application in camera and  
25      ex parte.

1       “(2) The judge shall invoke the procedures of sub-  
2 section (e), if the judge determines that there is probable  
3 cause to believe that—

4               “(A) the alien who is the subject of the applica-  
5 tion has been correctly identified;

6               “(B) a deportation proceeding described in sec-  
7 tions 242, 242A, or 242B would pose a risk to the  
8 national security of the United States because such  
9 proceedings would disclose classified information;  
10 and

11              “(C) the threat posed by the alien’s physical  
12 presence is immediate and involves the risk of death  
13 or serious bodily harm.

14       “(e) SPECIAL REMOVAL HEARING.—(1) Except as  
15 provided in paragraph (4), the special removal hearing au-  
16 thorized by a showing of probable cause described in sub-  
17 section (d)(2) shall be open to the public.

18       “(2) The alien shall have a right to be present at such  
19 hearing and to be represented by counsel. Any alien finan-  
20 cially unable to obtain counsel shall be entitled to have  
21 counsel assigned to represent such alien. Counsel may be  
22 appointed as described in section 3006A of title 18, United  
23 States Code.

24       “(3) The alien shall have a right to introduce evi-  
25 dence on his own behalf, and except as provided in para-

1 graph (4), shall have a right to cross-examine any witness  
2 or request that the judge issue a subpoena for the pres-  
3 ence of a named witness.

4 “(4) The judge shall authorize the introduction in  
5 camera and ex parte of any item of evidence for which  
6 the judge determines that public disclosure would pose a  
7 risk to the national security of the United States because  
8 it would disclose classified information.

9 “(5) With respect to any evidence described in para-  
10 graph (4), the judge shall cause to be delivered to the alien  
11 either—

12 “(A)(i) the substitution for such evidence of a  
13 statement admitting relevant facts that the specific  
14 evidence would tend to prove, or

15 “(ii) the substitution for such evidence of a  
16 summary of the specific evidence; or

17 “(B) if disclosure of even the substituted evi-  
18 dence described in subparagraph (A) would create a  
19 substantial risk of death or serious bodily harm to  
20 any person, a statement informing the alien that no  
21 such summary is possible.

22 “(6) If the judge determines—

23 “(A) that the substituted evidence described in  
24 paragraph (4)(B) will provide the alien with sub-

1       stantially the same ability to make his defense as  
2       would disclosure of the specific evidence, or

3               “(B) that disclosure of even the substituted evi-  
4       dence described in paragraph (5)(A) would create a  
5       substantial risk of death or serious bodily harm to  
6       any person,

7       then the determination of deportation (described in sub-  
8       section (f)) may be made pursuant to this section.

9               “(f) DETERMINATION OF DEPORTATION.—(1) If the  
10      determination in subsection (e)(6)(A) has been made, the  
11      judge shall, considering the evidence on the record as a  
12      whole, require that the alien be deported if the Attorney  
13      General proves, by clear and convincing evidence, that the  
14      alien is subject to deportation because he is an alien as  
15      described in section 241(a)(4)(B).

16              “(2) If the determination in subsection (e)(6)(B) has  
17      been made, the judge shall, considering the evidence re-  
18      ceived (in camera and otherwise), require that the alien  
19      be deported if the Attorney General proves, by clear, con-  
20      vincing, and unequivocal evidence, that the alien is subject  
21      to deportation because he is an alien as described in sec-  
22      tion 241(a)(4)(B).

23              “(g) APPEALS.—(1) The alien may appeal a deter-  
24      mination under subsection (f) to the court of appeals for  
25      the Federal Circuit, by filing a notice of appeal with such

1 court within 20 days of the determination under such sub-  
2 section.

3 “(2)(A) The Attorney General may appeal a deter-  
4 mination under subsection (d), (e), or (f) to the court of  
5 appeals for the Federal Circuit, by filing a notice of appeal  
6 with such court within 20 days of the determination under  
7 any one of such subsections.

8 “(B) When requested by the Attorney General, the  
9 entire record of the proceeding under this section shall be  
10 transmitted to the court of appeals under seal. If the At-  
11 torney General is appealing a determination under sub-  
12 section (d) or (e), the court of appeals shall consider such  
13 appeal in camera and ex parte.”.

14 **SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**  
15 **A BASIS FOR EXCLUSION FROM THE UNITED**  
16 **STATES UNDER THE IMMIGRATION AND NA-**  
17 **TIONALITY ACT.**

18 Section 212(a)(3)(B) of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

20 (1) in clause (i)(II) by inserting “or” at the  
21 end;

22 (2) by adding after clause (i)(II) the following:

23 “(III) is a member of an organi-  
24 zation that engages in, or has engaged  
25 in, terrorist activity or who actively

1 supports or advocates terrorist activ-  
 2 ity,”; and

3 (3) by adding after clause (iii) the following:

4 “(iv) TERRORIST ORGANIZATION DE-  
 5 FINED.—As used in this Act, the term ‘ter-  
 6 rorist organization’ means an organization  
 7 which commits terrorist activity as deter-  
 8 mined by the Attorney General, in con-  
 9 sultation with the Secretary of State.”.

## 10 **TITLE VII—INSPECTIONS**

### 11 **SEC. 701. PREINSPECTION AT FOREIGN AIRPORTS.**

12 (a) IN GENERAL.—The Immigration and Nationality  
 13 Act is amended by inserting after section 235 the following  
 14 new section:

15 “PREINSPECTION AT FOREIGN AIRPORTS

16 “SEC. 235A. (a) ESTABLISHMENT OF PRE-  
 17 INSPECTION STATIONS.—(1) Subject to paragraph (4),  
 18 not later than 2 years after the date of the enactment of  
 19 this section, the Attorney General, in consultation with the  
 20 Secretary of State, shall establish and maintain  
 21 preinspection stations in at least 5 of the foreign airports  
 22 that are among the 10 foreign airports which the Attorney  
 23 General identifies as serving as last points of departure  
 24 for the greatest numbers of passengers who arrive from  
 25 abroad by air at ports of entry within the United States.  
 26 Such preinspection stations shall be in addition to any



1 preinspection stations established prior to the date of the  
2 enactment of this section.

3 “(2) Not later than November 1, 1995, and each sub-  
4 sequent November 1, the Attorney General shall compile  
5 data identifying—

6 “(A) the foreign airports which served as last  
7 points of departure for aliens who arrived by air at  
8 United States ports of entry without valid docu-  
9 mentation during the preceding fiscal years,

10 “(B) the number and nationality of such aliens  
11 arriving from each such foreign airport, and

12 “(C) the primary routes such aliens followed  
13 from their country of origin to the United States.

14 “(3) Subject to paragraph (4), not later than 4 years  
15 after the date of enactment of this section, the Attorney  
16 General, in consultation with the Secretary of State, shall  
17 establish preinspection stations in at least 5 additional for-  
18 eign airports which the Attorney General, in consultation  
19 with the Secretary of State, determines based on the data  
20 compiled under paragraph (2) and such other information  
21 as may be available would most effectively reduce the  
22 number of aliens who arrive from abroad by air at points  
23 of entry within the United States without valid docu-  
24 mentation. Such preinspection stations shall be in addition  
25 to those established prior to or pursuant to paragraph (1).

1       “(4) Prior to the establishment of a preinspection  
2 station the Attorney General, in consultation with the Sec-  
3 retary of State, shall ensure that—

4               “(A) employees of the United States stationed  
5 at the preinspection station and their accompanying  
6 family members will receive appropriate protection,

7               “(B) such employees and their families will not  
8 be subject to unreasonable risks to their welfare and  
9 safety, and

10              “(C) the country in which the preinspection sta-  
11 tion is to be established maintains practices and pro-  
12 cedures with respect to asylum seekers and refugees  
13 in accordance with the Convention Relating to the  
14 Status of Refugees (done at Geneva, July 28, 1951),  
15 or the Protocol Relating to the Status of Refugees  
16 (done at New York, January 31, 1967).

17       “(b) ESTABLISHMENT OF CARRIER CONSULTANT  
18 PROGRAM.—The Attorney General shall assign additional  
19 immigration officers to assist air carriers in the detection  
20 of fraudulent documents at foreign airports which, based  
21 on the records maintained pursuant to subsection (a)(2),  
22 served as a point of departure for a significant number  
23 of arrivals at United States ports of entry without valid  
24 documentation, but where no preinspection station exists.

1       “(c) CLERICAL AMENDMENT.—The table of contents  
2 is amended by inserting after the item relating to section  
3 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

4       **SEC. 702. TRAINING OF AIRLINE PERSONNEL IN DETEC-**  
5                               **TION OF FRAUDULENT DOCUMENTS.**

6       (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.  
7 1356(h)(2)(A)) is amended—

8               (1) in clause (iv), by inserting “, including  
9 training of, and technical assistance to, commercial  
10 airline personnel on such detection” after “United  
11 States”, and

12              (2) by adding at the end the following:

13 “The Attorney General shall provide for expenditures for  
14 training and assistance described in clause (iv) in an  
15 amount, for any fiscal year, not less than 5 percent of  
16 the total of the expenses incurred that are described in  
17 the previous sentence.”.

18       (b) COMPLIANCE WITH DETECTION REGULA-  
19 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by  
20 adding at the end the following: “Whenever the Attorney  
21 General finds that a commercial airline has failed to com-  
22 ply with regulations of the Attorney General relating to  
23 requirements of airlines for the detection of fraudulent  
24 documents used by passengers traveling to the United  
25 States (including the training of personnel in such detec-

tion), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.”.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1995.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

## **TITLE VIII—ASYLUM**

### **SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.**

(a) IN GENERAL.—Section 235(b) (8 U.S.C. 1225(b)) is amended to read as follows:

“(b) INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.—

“(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

“(2)(A) If the examining immigration officer determines that an alien seeking entry—

1           “(i) does not present the documentation  
2           required (if any) to obtain legal entry to the  
3           United States; and

4           “(ii) does not indicate either an intention  
5           to apply for provisional asylum (under section  
6           208) or a fear of persecution,  
7           the officer shall order the alien excluded from the  
8           United States without further hearing or review.

9           “(B) The examining immigration officer shall  
10          refer for immediate inspection at the port of entry  
11          by an asylum officer under subparagraph (C) any  
12          alien who (i) does not present the documentation re-  
13          quired (if any) to obtain legal entry to the United  
14          States, and (ii) has indicated an intention to apply  
15          for provisional asylum or a fear of persecution. Such  
16          an alien shall not be considered to have been in-  
17          spected and admitted for purposes of this Act.

18          “(C)(i) If an asylum officer determines that an  
19          alien has a credible fear of persecution, the alien  
20          shall be entitled to apply for provisional asylum  
21          under section 208.

22          “(ii)(I) Subject to subclause (II), if an asylum  
23          officer determines that an alien does not have a  
24          credible fear of persecution the officer shall order

1 the alien excluded from the United States without  
2 further hearing or review.

3 “(II) The Attorney General shall promulgate  
4 regulations to provide for the immediate review by  
5 another asylum officer at the port of entry of a deci-  
6 sion under subclause (I).

7 “(iii) For the purposes of this subparagraph,  
8 the term ‘credible fear of persecution’ means (I) that  
9 it is more probable than not that the statements  
10 made by the alien in support of his or her claim are  
11 true, and (II) that there is a significant possibility,  
12 in light of such statements and of such other facts  
13 as are known to the officer that the alien could es-  
14 tablish eligibility for provisional asylum under sec-  
15 tion 208.

16 “(iv) Notwithstanding any other provision of  
17 law, no court shall have jurisdiction to review, except  
18 by petition for habeas corpus, any determination  
19 made with respect to an alien found excludable pur-  
20 suant to this paragraph. In any such case, review by  
21 habeas corpus shall be limited to examination of  
22 whether the petitioner (I) is an alien, and (II) was  
23 ordered excluded from the United States pursuant to  
24 this paragraph.

1           “(v) Notwithstanding any other provision of  
2 law, no court shall have jurisdiction (I) to review the  
3 procedures established by the Attorney General for  
4 the determination of exclusion pursuant to this para-  
5 graph, or (II) to enter declaratory or injunctive re-  
6 lief with respect to the implementation of this para-  
7 graph. Regardless of the nature of the suit or claim,  
8 no court shall have jurisdiction except by habeas cor-  
9 pus petition as provided in clause (iv) to consider  
10 the validity of any adjudication or determination  
11 under this paragraph or to provide declaratory or in-  
12 junctive relief with respect to the exclusion of any  
13 alien pursuant to this paragraph.

14           “(vi) In any action brought for the assessment  
15 of penalties for improper entry or re-entry of an  
16 alien under section 275 or 276, no court shall have  
17 jurisdiction to hear claims collaterally attacking the  
18 validity of orders of exclusion or deportation entered  
19 under sections 235, 236, and 242.

20           “(3)(A) Except as provided in subparagraph  
21 (B), if the examining immigration officer determines  
22 that an alien seeking entry is not clearly and beyond  
23 a doubt entitled to enter, the alien shall be detained  
24 for a hearing before a special inquiry officer.

1           “(B) The provisions of subparagraph (A) shall  
2 not apply—

3                 “(i) to an alien crewman,

4                 “(ii) to an alien described in paragraph  
5 (2)(A) or 2(B), or

6                 “(iii) if the conditions described in section  
7 273(d) exist.

8           “(4) The decision of the examining immigration  
9 officer, if favorable to the admission of any alien,  
10 shall be subject to challenge by any other immigra-  
11 tion officer and such challenge shall operate to take  
12 the alien, whose privilege to enter is so challenged,  
13 before a special inquiry officer for a hearing on ex-  
14 clusion of the alien.

15           “(5) An alien has not entered the United States  
16 for purposes of this Act unless and until such alien  
17 has been inspected and admitted by an immigration  
18 officer pursuant to this subsection.”.

19           (b) CONFORMING AMENDMENTS.—Section 237(a) (8  
20 U.S.C. 1227(a)) is amended—

21                 (1) in the second sentence of paragraph (1) by  
22 striking “Deportation” and inserting “Subject to  
23 section 235(b)(2), deportation”; and



1           (2) in the first sentence of paragraph (2) by  
2       striking “If” and inserting “Subject to section  
3       235(b)(2), if”.

4   **SEC. 802. ASYLUM.**

5       (a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is  
6   amended to read as follows:

7   **“SEC. 208. ASYLUM.**

8       (a) PROVISIONAL ASYLUM.—

9           “(1) RIGHT TO APPLY.—The Attorney General  
10       shall establish a procedure for an alien physically  
11       present in the United States or at a land border or  
12       port of entry, irrespective of such alien’s status, to  
13       apply for provisional asylum in accordance with this  
14       section.

15           “(2) CONDITIONS FOR GRANTING.—

16           “(A) MANDATORY CASES.—The Attorney  
17       General shall grant provisional asylum to an  
18       alien if the alien applies for provisional asylum  
19       in accordance with the requirements of this sec-  
20       tion and establishes that it is more likely than  
21       not that in the alien’s country of nationality  
22       (or, in the case of a person having no national-  
23       ity, the country in which such alien last habit-  
24       ually resided) such alien’s life or freedom would  
25       be threatened on account of race, religion, na-

1           tionality, membership in a particular social  
2           group, or political opinion.

3           “(B) DISCRETIONARY CASES.—The Attor-  
4           ney General may grant provisional asylum to an  
5           alien if the alien applies for provisional asylum  
6           in accordance with the requirements of this sec-  
7           tion and establishes that the alien is a refugee  
8           within the meaning of section 101(a)(42).

9           “(C) EXCEPTIONS.—(i) Subparagraphs  
10          (A) and (B) shall not apply to an alien if the  
11          Attorney General determines that—

12               “(I) the alien ordered, incited, as-  
13               sisted, or otherwise participated in the per-  
14               secution of any person on account of race,  
15               religion, nationality, membership in a par-  
16               ticular social group, or political opinion;

17               “(II) the alien, having been convicted  
18               by a final judgment of a particularly seri-  
19               ous crime, constitutes a danger to the com-  
20               munity of the United States;

21               “(III) there are serious reasons for  
22               believing that the alien has committed a  
23               serious nonpolitical crime outside the  
24               United States prior to the arrival of the  
25               alien in the United States;

1           “(IV) there are reasonable grounds  
2           for regarding the alien as a danger to the  
3           security of the United States; or

4           “(V) a country willing to accept the  
5           alien has been identified (other than the  
6           country described in subparagraph (A)) to  
7           which the alien can be deported or re-  
8           turned and the alien does not establish  
9           that it is more likely than not that the  
10          alien’s life or freedom would be threatened  
11          in such country on account of race, reli-  
12          gion, nationality, membership in a particu-  
13          lar social group, or political opinion.

14          “(ii)(I) For purposes of clause (i)(II), an  
15          alien who has been convicted of an aggravated  
16          felony shall be considered to have committed a  
17          particularly serious crime.

18          “(II) The Attorney General shall promul-  
19          gate regulations that specify additional crimes  
20          that will be considered to be a crime described  
21          in clause (i)(II) or (i)(III).

22          “(III) The Attorney General shall promul-  
23          gate regulations establishing such additional  
24          limitations and conditions as the Attorney Gen-  
25          eral considers appropriate under which an alien

1           shall be ineligible to apply for provisional asy-  
2           lum under subparagraph (B).

3           “(3) PROVISIONAL ASYLUM STATUS.—In the  
4           case of any alien granted provisional asylum under  
5           paragraph (2)(A), the Attorney General, in accord-  
6           ance with this section—

7                   “(A) shall not deport or return the alien to  
8                   the country described under paragraph (2)(A);

9                   “(B) shall authorize the alien to engage in  
10                  employment in the United States and provide  
11                  the alien with an ‘employment authorized’ en-  
12                  dorsement or other appropriate work permit;  
13                  and

14                  “(C) may allow the alien to travel abroad  
15                  with the prior consent of the Attorney General.

16           “(4) TERMINATION.—Provisional asylum grant-  
17           ed under paragraph (2) may be terminated if the At-  
18           torney General, pursuant to such regulations as the  
19           Attorney General may prescribe, determines that—

20                   “(A) the alien no longer meets the condi-  
21                   tions described in paragraph (2) owing to a  
22                   change in circumstances in the alien’s country  
23                   of nationality or, in the case of an alien having  
24                   no nationality, in the country in which the alien  
25                   last habitually resided;

1           “(B) the alien meets a condition described  
2           in paragraph (2)(C); or

3           “(C) a country willing to accept the alien  
4           has been identified (other than the country de-  
5           scribed in paragraph (2)) to which the alien can  
6           be deported or returned and the alien cannot  
7           establish that it is more likely than not that the  
8           alien’s life or freedom would be threatened in  
9           such country on account of race, religion, na-  
10          tionality, membership in a particular social  
11          group, or political opinion.

12          “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In  
13          the case of an alien described in paragraph  
14          (2)(C)(i)(V) or paragraph (4)(C), the alien’s depor-  
15          tation or return shall be directed by the Attorney  
16          General in the sole discretion of the Attorney Gen-  
17          eral, to any country which is willing to accept the  
18          alien into its territory (other than the country de-  
19          scribed in paragraph (2)(A)).

20          “(b) PROVISIONAL ASYLUM APPLICATIONS.—

21                 “(1) IN GENERAL.—

22                         “(A) DEADLINE.—Subject to subpara-  
23                         graph (B), an alien’s application for provisional  
24                         asylum shall not be considered under this sec-  
25                         tion unless—

1           “(i) the alien has filed, not later than  
2           30 days after entering or coming to the  
3           United States, notice of intention to file  
4           such an application, and

5           “(ii) such application is actually filed  
6           not later than 60 days after entering or  
7           coming to the United States.

8           “(B) EXCEPTION.—An application for pro-  
9           visional asylum may be considered, not with-  
10          standing that the requirements of subparagraph  
11          (A) have not been met, only if the alien dem-  
12          onstrates by clear and convincing evidence  
13          changed circumstances in the alien’s country of  
14          nationality (or in the case of an alien with no  
15          nationality, in the country where the alien last  
16          habitually resided) affecting eligibility for provi-  
17          sional asylum.

18          “(2) REQUIREMENTS.—An application for pro-  
19          visional asylum shall not be considered unless the  
20          alien submits to the taking of fingerprints and a  
21          photograph in a manner determined by the Attorney  
22          General.

23          “(3) PREVIOUS DENIAL OF ASYLUM.—An appli-  
24          cation for provisional asylum shall not be considered  
25          if the alien has been denied asylum by a country in

1       which the alien had access to a full and fair proce-  
2       dure for determining his or her asylum claim in ac-  
3       cordance with a bilateral or multilateral agreement  
4       between that country and the United States.

5           “(4) FEES.—In the discretion of the Attorney  
6       General, the Attorney General may impose reason-  
7       able fees for the consideration of an application for  
8       provisional asylum, for employment authorization  
9       under this section, and for adjustment of status  
10      under section 209(b). The Attorney General is au-  
11      thorized to provide for the assessment and payment  
12      of any such fee over a period of time or by install-  
13      ments.

14          “(5) EMPLOYMENT.—An applicant for provi-  
15      sional asylum is not entitled to engage in employ-  
16      ment in the United States. The Attorney General  
17      may authorize an alien who has filed an application  
18      for provisional asylum to engage in employment in  
19      the United States, in the discretion of the Attorney  
20      General.

21          “(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS  
22      APPLICATIONS.—At the time of filing a notice of in-  
23      tention to apply for provisional asylum, the alien  
24      shall be advised of the consequences, under sub-

1 section (e), of filing a frivolous application for provi-  
2 sional asylum.

3 “(c) SANCTIONS FOR FAILURE TO APPEAR.—

4 “(1) Subject to paragraph (2), the application  
5 for provisional asylum of an alien who does not ap-  
6 pear for a hearing on such application shall be sum-  
7 marily dismissed unless the alien can show excep-  
8 tional circumstances (as defined in section  
9 242B(f)(2)) as determined by an asylum officer or  
10 immigration judge.

11 “(2) Paragraph (1) shall not apply if written  
12 and oral notice were not provided to the alien of the  
13 time and place at which the asylum hearing was to  
14 be held, and in the case of any change or postpone-  
15 ment in such time or place, written and oral notice  
16 were provided to the alien of the new time or place  
17 of the hearing.

18 “(d) ASYLUM.—

19 “(1) ADJUSTMENT OF STATUS.—Under such  
20 regulations as the Attorney General may prescribe,  
21 the Attorney General shall adjust to the status of an  
22 alien granted asylum the status of any alien granted  
23 provisional asylum under subsection (a)(2)(A) or  
24 (a)(2)(B) who—

25 “(A) applies for such adjustment;



1           “(B) has been physically present in the  
2           United States for at least 1 year after being  
3           granted provisional asylum;

4           “(C) continues to be eligible for provisional  
5           asylum under this section; and

6           “(D) is admissible under this Act at the  
7           time of examination for adjustment of status  
8           under this subsection.

9           “(2) TREATMENT OF SPOUSE AND CHIL-  
10          DREN.—A spouse or child (as defined in section  
11          101(b)(A), (B), (C), (D), or (E)) of an alien whose  
12          status is adjusted to that of an alien granted asylum  
13          under paragraph (a)(2) may be granted the same  
14          status as the alien if accompanying, or following to  
15          join, such alien.

16          “(3) APPLICATION FEES.—The Attorney Gen-  
17          eral may impose a reasonable fee for the filing of an  
18          application for asylum under this subsection.

19          “(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-  
20          OLOUS APPLICATIONS.—

21          “(1) IN GENERAL.—If the Attorney General de-  
22          termines that an alien has made a frivolous applica-  
23          tion for provisional asylum under this section and  
24          the alien has received the notice under subsection  
25          (b)(5), the alien shall be permanently ineligible for

1 any benefits under this Act, effective as of the date  
2 of a final determination on such application.

3 “(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an appli-  
4 cation considered to be ‘frivolous’ includes, but is  
5 not limited to, an application which contains a will-  
6 ful misrepresentation or concealment of a material  
7 fact.”.

8  
9 (b) CLERICAL AMENDMENT.—The item in the table  
10 of contents relating to section 208 is amended to read as  
11 follows:

“Sec. 208. Asylum.”.

12 **SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**  
13 **HEARING; JUDICIAL REVIEW.**

14 (a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM  
15 HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is  
16 amended—

17 (1) in the heading, by striking “ASYLUM” and  
18 inserting “PROVISIONAL ASYLUM”;

19 (2) by striking “asylum” each place it appears  
20 and inserting “provisional asylum”; and

21 (3) in subparagraph (A), by striking all after  
22 clause (iii) and inserting “shall not be eligible for  
23 any benefits under this Act.”.

1       (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.  
2 1105a) is amended by adding at the end the following sub-  
3 section:

4       “(d) The procedure prescribed by, and all the provi-  
5 sions of chapter 158 of title 28, United States Code, shall  
6 apply to, and shall be the sole and exclusive procedure for,  
7 the judicial review of all final orders granting or denying  
8 provisional asylum, except that—

9               “(1) a petition for review may be filed not later  
10 than 90 days after the date of the issuance of the  
11 final order granting or denying provisional asylum;

12               “(2) the venue of any petition for review under  
13 this subsection shall be in the judicial circuit in  
14 which the administrative proceedings were conducted  
15 in whole or in part, or in the judicial circuit wherein  
16 is the residence, as defined in this Act, of the peti-  
17 tioner, but not in more than one circuit; and

18               “(3) notwithstanding any other provision of  
19 law, a determination granting or denying provisional  
20 asylum based on changed circumstances pursuant to  
21 section 208(b)(1)(A)(ii) shall be in the sole discre-  
22 tion of the officer conducting the administrative pro-  
23 ceeding.”.

1 **SEC. 804. CONFORMING AMENDMENTS.**

2 (a) LIMITATION ON DEPORTATION.—Section 243 (8  
3 U.S.C. 1253) is amended by striking subsection (h).

4 (b) ADJUSTMENT OF STATUS.—Section 209(b) (8  
5 U.S.C. 1159(b)) is amended—

6 (1) in paragraph (2) by striking “one year” and  
7 inserting “2 years”; and

8 (2) by amending paragraph (3) to read as  
9 follows:

10 “(3) continues to be eligible for provisional asy-  
11 lum under section 208.”.

12 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-  
13 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.  
14 1254a(c)(2)(B)(ii)) is amended by striking “section  
15 243(h)(2)” and inserting “section 208(a)(2)(C)”.

16 (d) ELIGIBILITY FOR NATURALIZATION.—Section  
17 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking  
18 “subparagraphs (A) through (D) of paragraph 243(h)(2)”  
19 and inserting “section 208(a)(2)(C).”.

20 (e) FAMILY UNITY.—Section 301(e) of the Immigra-  
21 tion Act of 1990 (Public Law 101–649) is amended by  
22 striking “section 243(h)(2)” and inserting “section  
23 208(a)(2)(C).”.

1 **SEC. 805. EFFECTIVE DATES.**

2 (a) IN GENERAL.—Except as otherwise provided, the  
3 amendments made by this title shall take effect on the  
4 date of the enactment of this Act.

5 (b) EXCEPTIONS.—

6 (1) The amendments made by this title shall  
7 not apply to applications for asylum or withholding  
8 of deportation made before the first day of the first  
9 month that begins more than 180 days after the  
10 date of the enactment of this Act and no application  
11 for provisional asylum under section 208 of the Im-  
12 migration and Nationality Act (as amended by sec-  
13 tion 801 of this title) shall be considered before such  
14 first day.

15 (2) In applying section 208(b)(1)(A) of the Im-  
16 migration and Nationality Act (as amended by this  
17 title) in the case of an alien who has entered or  
18 came to the United States before the first day de-  
19 scribed in paragraph (1), notwithstanding the dead-  
20 lines specified in such section—

21 (A) the deadline for the filing of a notice  
22 of intention to file an application for provisional  
23 asylum is 30 days after such first day, and

24 (B) the deadline for the filing of the appli-  
25 cation for provisional asylum is 30 days after  
26 the date of filing such notice.

1           (3) The amendments made by section 803(b)  
2           (relating to adjustment of status) shall not apply to  
3           aliens granted asylum under section 208 of the Im-  
4           migration and Nationality Act, as in effect before  
5           the date of the enactment of this Act.

○

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